

UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
FOR THE FOURTH CIRCUIT
Richmond, VA (10/27/2014 - 10/30/2014 Session)

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13-8021	Briefs	CIVIL RIGHTS: Whether death row inmate has established a liberty interest in avoiding permanent solitary confinement; other issues.
Alfredo Prieto v. Harold Clarke (Brinkema)		
Associations: 14-6226		

13-7606	Briefs	SECTION 1983: Whether the district court committed clear error in finding plaintiff did not prove defendants' actual knowledge of risk of harm.
Adib Makdessi v. Lt. Fields (Conrad)		

13-2390	Briefs	CIVIL: Whether Trial Period Plan of mortgage modification was an enforceable contract; other issues.
Jay Neil v. Wells Fargo Bank, N.A. (Hilton)		

13-7291	Briefs	CIVIL RIGHTS: Whether defendants sufficiently demonstrated mootness of requests for injunctive relief; whether court erred by dismissing damages claims.
Samuel Jackson v. Joseph Lightsey (Fox)		

PANEL I
Red Courtroom (Room 412)
9:30 a.m.

Tuesday, October 28, 2014

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14-6214	Briefs	CIVIL: Whether judicial estoppel or qualified immunity warranted summary judgment for defendants in detainee's action
Eugene Dunston v. Donnie Harrison		alleging excessive force by prison guards.
(Fox)		

13-2379	Briefs	ERISA: Whether plan administrator abused its discretion in deciding that employee was not disabled under short-term
Nancy Harrison v. Wells Fargo Bank, N.A.		disability plan; other issues.
(Spencer)		

13-4733	Briefs	CRIMINAL: Sufficiency of the evidence to support multiple convictions; other issues.
US v. Michael Logan		
(O'Grady)		

13-1766	Briefs	CIVIL: Numerous issues related to necessary/indispensable parties, lease interpretation, and damages.
Redner's Markets, Inc. v. Joppatowne G.P. LP		
(Bennett)		
Associations: 13-1974, 13-2279		

PANEL II
Butzner En Banc Courtroom 201
9:30 a.m.

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13-2235	Briefs	RICO: Challenge to recovery for violation of West Virginia Rule 11 and denial of motion for new trial; other issues.
CSX Transportation, Incorporated v. Robert (Stamp)		
Associations: 13-2252, 13-2325		

13-2160	Briefs	CONSTITUTIONAL LAW: Issues related to timeliness of appeal; standing; appropriateness of injunction against county's legislative prayer procedure.
Barbara Hudson v. Pittsylvania County, (Urbanski)		

14-1038	Briefs	TITLE VII: Did district court err in holding harassment was not severe or pervasive in hostile work environment suit; other issues.
Robin Walker v. Mod-U-Kraf Homes, LLC (Conrad)		

PANEL III
Tan Courtroom (Room 223)
9:30 a.m.

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13-2274	Briefs	CIVIL: Whether contract for software licensing is ambiguous and, if so, whether extrinsic evidence resolved the ambiguity.
North Carolina Farm Bureau v. Clear (Boyle)		

13-2097	Briefs	CIVIL: Whether court erred in denying motion to dismiss for lack of subject matter jurisdiction based on waiver of governmental immunity.
AGI Associates, LLC v. City of Hickory, NC (Voorhees)		

13-2257	Briefs	CIVIL RIGHTS: Numerous issues in Section 1983 action alleging illegal entry into residence, false arrest, and malicious prosecution.
Andrew Fialdini v. Eric Cote (Brinkema)		

13-2389	Briefs	CONSTITUTIONAL LAW: Whether county ordinance banning activity in medians and shoulders of county roads passes constitutional muster.
Robert Reynolds v. Douglas Middleton (Gibney)		

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Tweed Courtroom (Room 414-D)
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13-2007 [Briefs](#) CIVIL: Whether district court erred in finding fraudulent joinder, denying remand, and dismissing under Rule 12(b)(6).
Richard Weidman v. Exxon Mobil Corporation
(Hilton)

13-2064 [Briefs](#) IMMIGRATION: Whether the agency's adverse credibility determination is supported by substantial evidence.
Faustin Ilunga v. Eric Holder, Jr.

13-1227 [Briefs](#) CIVIL: Whether appellees are entitled to qualified immunity from liability on Coveys' Fourth Amendment claim arising from
Christopher Covey v. Assessor of Ohio County appellees' presence on Coveys' property and search of their residence; other issues.
(Stamp)

PANEL V
Gold Courtroom (Room 348)
9:30 a.m.

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14-1150	Briefs	CONSTITUTIONAL LAW: Whether the district court erred in enjoining implementation of N.C. G.S. section 90-21.85 concerning pre-abortion requirements.
Gretchen Stuart v. Paul Camnitz (Eagles)		

13-4660	Briefs	SENTENCING: Whether supervised release term was procedurally unreasonable.
US v. Brian Isdell (Cogburn)		

13-7824	Briefs	POSTCONVICTION: Whether the rule announced in Miller v. Alabama applies retroactively to a case on collateral review; other issues.
Shermaine Johnson v. Henry Ponton (Spencer)		

13-2123	Briefs	CIVIL: Jurisdiction; standing; sovereign immunity.
International Federation v. Karen Haas (Williams)		

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Red Courtroom (Room 412)
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12-8064	Briefs	HABEAS: Whether counsel rendered ineffective assistance by failing to argue that Jones had standing to move to suppress the evidence seized.
US v. Jermarl Jones		
(Blake)		

13-1995	Briefs	CIVIL: When did action accrue under Maryland law; conditionality of independent medical examination.
Martin Curry v. Trustmark Insurance Company		
(Bredar)		

13-2365	Briefs	TITLE VII: Whether district court erred in concluding EEOC failed to identify "particular employment practice" under challenge; other issues.
EEOC v. Freeman		
(Titus)		

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Butzner En Banc Courtroom 201
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13-4995	Briefs	CRIMINAL: Whether ineffective assistance of counsel claim is cognizable on direct appeal.
US v. Dwight Gooding (Boyle)		
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13-1523	Briefs	CONSTITUTIONAL LAW: Whether district court properly dismissed suit by state employee/retirees based upon sovereign immunity; other issues.
Gail Hutto v. SC Retirement System (Childs)		
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13-2137	Briefs	ANTI-SPAM STATUTES: Whether volenti non fit injuria doctrine is a valid defense to suits brought under Maryland and California anti-spam statutes; other issues.
Beyond Systems, Inc. v. Kraft Foods, (Messitte)		
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13-2265	Briefs	CIVIL: Whether plaintiff failed to state a claim of fraud arising from his enrollment in doctoral program; other issues.
Melvin Murphy v. Capella Education Company (Hilton)		

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Tan Courtroom (Room 223)
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13-2246	Briefs	IMMIGRATION: Whether an alien who falsely claims U.S. citizenship on a Form I-9 is seeking a "benefit" under the INA.
Raymond Dakura v. Eric Holder, Jr.		
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13-2161	Briefs	TAX: Whether taxpayers donated a qualified real property interest as defined by IRC section 170(h)(2)(C) entitling them to a deduction.
B. Belk, Jr. v. Commissioner of Internal Rev		
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13-2170	Briefs	CONSTITUTIONAL LAW: Challenge to the constitutionality of S.C. Code 7-11-30; standing; other issues.
Greenville County Republican v. Greenville (Lewis)		
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13-2241	Briefs	JURISDICTION: Whether district court lacked personal jurisdiction over Argentinian corporation because it did not purposefully avail itself in North Carolina.
Universal Leather, LLC v. KORO AR, S.A. (Osteen)		

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Tweed Courtroom (Room 414-D)
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14-6102 [Briefs](#)
Zhenli Gon v. Gerald S. Holt
(Turk)

HABEAS: Issues regarding extradition to Mexico.

13-1872 [Briefs](#)
Robert Johnson v. American Towers, LLC
(Currie)

CIVIL: Whether claims precluded by Federal Communications Act; propriety of motion to remand.

PANEL V
Gold Courtroom (Room 348)
9:30 a.m.

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14-1171 [Briefs](#) DEBT COLLECTION: Is the assignment of judgment subject to the Fair Debt Collection Practices Act; other issues.
Aleta Powell v. Palisades Acquisition XVI, LLC
(Bennett)

14-1180 [Briefs](#) TORT: Whether N.C. citizen injured in Va. is barred from suing statutory co-employee under Va. Workers' Compensation Act; certification issue.
James Demetres v. East West Construction,
(Smith)

14-1195 [Briefs](#) BANKRUPTCY: Did the bankruptcy court err in refusing to compel arbitration.
Oteria Moses v. Cashcall, Inc.
(Boyle)

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Red Courtroom (Room 412)
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14-1085	Briefs	IMMIGRATION: Whether Va. Code Ann. section 18.2-102 is categorically a theft offense and thus an aggravated felony for removal purposes.
Julio C. Castillo v. Eric Holder, Jr.		

13-7384	Briefs	CRIMINAL: Propriety of delaying 18 U.S.C. section 4243 commitment hearing until completion of federal sentence that post-dated the insanity acquittal.
US v. Samuel Conrad, III (Jones)		

13-2321	Briefs	CIVIL: Cross-appeals concerning breach of contract, claim of unfair trade practices.
Triad Packaging, Incorporated v. SupplyONE, (Voorhees)		
Associations: 13-2362		

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Butzner En Banc Courtroom 201
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13-2517	Briefs	IMMIGRATION: Whether "new evidence" should have been considered on remand; whether alien established eligibility for relief under VAWA; other issues.
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13-2511	Briefs	IMMIGRATION: Whether this court has jurisdiction to review Board order affirming the denial of asylum, but remanding for completion of background checks in connection with grant of withholding of removal.
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Associations: 14-1530		
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13-2459	Briefs	IMMIGRATION: Whether the Board erred in premitting application for cancellation of removal under 8 U.S.C. section 1101(f)(7) (2012); other issues.
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14-4024	Briefs	CRIMINAL: Whether post-arrest show-up identification violated defendant's constitutional rights to due process and assistance of counsel; other issues.
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US v. Prince Bell (Jackson)		

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13-1603 [Briefs](#) CERCLA: Did Georgia Power arrange for the disposal of hazardous substances within the meaning of 42 U.S.C. section
Duke Energy Progress, Inc. v. Consolidation 9607(a)(3).
(Flanagan)
Associations: 13-1617, 13-1664, 13-1666

14-1017 [Briefs](#) FOOD SECURITY ACT: Whether agency's decision is arbitrary and capricious because it precluded appellants from challenging
Steve Bass v. Tom Vilsack prior wetlands determination, other issues.
(Howard)

13-2190 [Briefs](#) FALSE CLAIMS ACT: Were claims of falsification of firearms qualification and training records for security personnel
United States ex rel. Omar Bad v. Triple improperly dismissed; other issues.
(Lee)
Associations: 13-2191

13-2418 [Briefs](#) IMMIGRATION: Whether petitioner's state conviction for arson is an aggravated felony; related issues.
Sandra Espinal-Andrades v. Eric Holder, Jr.

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14-4019	Briefs	CRIMINAL: Whether the Government established that defendant "knowingly" failed to register as a sex offender under SORNA; other issues.
US v. Dwaine Allen Collins (Chambers)		
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13-2146	Briefs	PREEMPTION: Whether state law claims based on marketing of fluoride-containing food products is preempted by federal law; other issues.
Michelle Nemphos v. Nestle Waters North (Russell)		
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13-4937	Briefs	CRIMINAL: Whether district court interfered with plea negotiations; whether government breach of plea agreement; whether sentence is illegal; other issues.
US v. Oluwaseun Sanya (Messitte)		
Associations: 13-4938		
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12-5037	Briefs	CRIMINAL: Whether sufficient evidence supported the defendant's convictions; whether the "sophisticated means" sentencing enhancement was correctly applied.
US v. John Graves (Spencer)		

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Gold Courtroom (Room 348)
8:30 a.m.

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